

# Preface

In previous years, issues related to transfer pricing and intra-group financing are prominent in the agendas of both taxpayers and governments. The relevance of these issues is due to numerous factors. The first is the fact that money is a highly movable asset that can often be shifted around the world without significant effort. Second, the complexity of these issues requires comprehensive knowledge not only of the applicable tax codes but also of corporate finance, corporate law, and other subjects. The third is the debt-equity conundrum that has historically generated important discussions among tax experts. Consequently, according to the outcomes of a recent study, approximately 40% of MNEs have indicated transfer pricing issues related to intra-group financing as the most relevant issue in tax controversies.<sup>1</sup>

The extreme relevance of these topics and the need to address them has attracted the interest of various international organizations for a long time. Already in 1972, the OECD Committee on Fiscal Affairs emphasized that these topics required further attention. As a result, the 1979 OECD Transfer Pricing Report dedicated an entire chapter to issues concerning loans and, in 1986, the OECD Report on Thin Capitalization addressed a number of related issues. However, the first OECD Transfer Pricing Guidelines issued in 1995 did not include a chapter on these issues, and the reasons for this exclusion are unknown.

Twenty-five years later, in February 2020, the OECD finally released its Transfer Pricing Guidance on Financial Transactions that became Chapter X of the OECD Transfer Pricing Guidelines. Shortly later, in 2021, the United Nations included these topics in Chapter 9 of its Practical Manual for Developing Countries.

The guidance provided by both international organizations aligned with the best practices developed on the topic around the world clearly highlights that, when analysing the transfer pricing aspects of intra-group financial transactions, the accurate delineation and recognition of the actual transactions are of vital importance. As already confirmed by some relevant case law that will be explored in this book, these will be at the core of the discussions between taxpayers and tax administrations in the upcoming years.

Moreover, regarding pricing, various methodologies have been proposed, and they are all very beneficial in practice. However, the manner in which they should be implemented remains a controversial issue, as the following chapters will illustrate.

This book is based on the outcomes of the presentations and discussions held during the WU Transfer Pricing Symposium “Transfer Pricing and Financial Trans-

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<sup>1</sup> EY, 2019 Transfer Pricing and International Tax Survey, p 18.

actions: Current Developments, Relevant Issues and Possible Solutions” that occurred in October 2021 at the WU Vienna University of Economics and Business. The symposium was organized by the WU Transfer Pricing Center at the Institute for Austrian and International Tax Law which is conducting research projects on various transfer pricing topics and their global impacts, including the application of transfer pricing rules to intra-group financing. During the symposium, four renowned international experts presented their papers on various issues associated with transfer pricing and financial transactions that were accompanied by practical case studies and followed by panel discussions; all are part of this book that also includes an introduction chapter.

This book is aimed at academics, practitioners (including the business community and advisory firms), international organizations, and government officials who are tax and transfer pricing experts. It is also directed at C-level executives who are interested in the transfer pricing issues related to financial transactions. The book provides an in-depth analysis of the topics described above and suggestions for potential future solutions to any issues that are raised.

The editors would like to express their sincere appreciation to the authors of the four chapters and the introduction section who made it possible to provide this book. Many thanks are forwarded to Linde Verlag GmbH for supporting and cooperating with this publication project. Last, but not least, the editor would like to thank *Christina Sudrat*, *Marcelo Henrique Barbosa Moura* and *Nina Klaus* for the overall supervision and *Jenny Hill* for providing linguistic support to the authors during the publishing process.

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